

House File 2240 - Introduced

HOUSE FILE 2240

BY SHAW

(COMPANION TO SF 251 BY KIBBIE)

A BILL FOR

1 An Act relating to the duty of care owed to certain persons
2 operating a snowmobile, establishing the criminal offense
3 of dangerous condition manslaughter, and providing criminal
4 penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321G.22, Code 2011, is amended to read
2 as follows:

3 **321G.22 Limitation of liability by public bodies and**
4 **adjoining owners.**

5 1. The state, its political subdivisions, and the owners or
6 tenants of property adjoining public lands or the right-of-way
7 of a public highway and their agents and employees owe no
8 duty of care to keep the public lands, ditches, or land
9 contiguous to a highway or roadway under the control of the
10 state or a political subdivision safe for entry or use by
11 persons operating a snowmobile, or to give any warning of
12 a dangerous condition, use, structure, or activity on the
13 premises to persons entering for such purposes, except in the
14 case of ~~willful or malicious~~ failure to guard or warn against a
15 dangerous condition, use, structure, or activity of which the
16 owner of the property or the person responsible for care or
17 operation of the property, upon which the dangerous condition,
18 use, structure, or activity is located, had actual knowledge
19 or actual notice. The state, its political subdivisions, and
20 the owners or tenants of property adjoining public lands or the
21 right-of-way of a public highway and their agents and employees
22 are not liable for actions taken to allow or facilitate the use
23 of public lands, ditches, or land contiguous to a highway or
24 roadway except in the case of a ~~willful or malicious~~ failure to
25 guard or warn against a dangerous condition, use, structure,
26 or activity of which the owner of the property or the person
27 responsible for care or operation of the property, upon
28 which the dangerous condition, use, structure, or activity is
29 located, had actual knowledge or actual notice.

30 2. ~~This section~~ Except as otherwise provided in subsection
31 1, this section does not create a duty of care or ground of
32 liability on behalf of the state, its political subdivisions,
33 or the owners or tenants of property adjoining public lands
34 or the right-of-way of a public highway and their agents and
35 employees for injury to persons or property in the operation

1 of snowmobiles in a ditch or on land contiguous to a highway
2 or roadway under the control of the state or a political
3 subdivision. The state, its political subdivisions, and the
4 owners or tenants of property adjoining public lands or the
5 right-of-way of a public highway and their agents and employees
6 are not liable for the operation of a snowmobile in violation
7 of this chapter.

8 Sec. 2. Section 331.802, subsection 2, paragraph b, Code
9 2011, is amended to read as follows:

10 b. Except as provided in section 218.64 or as otherwise
11 provided by law, for each preliminary investigation and
12 the preparation and submission of the required reports, the
13 county medical examiner shall receive from the county of
14 appointment a fee determined by the board plus the examiner's
15 actual expenses. The fee and expenses paid by the county of
16 appointment shall be reimbursed to the county of appointment
17 by the county of the person's residence. However, if the
18 person's death is caused by a defendant for whom a judgment of
19 conviction and sentence is rendered under section 707.2, 707.3,
20 707.4, 707.5, ~~or~~ 707.6A, or 707.6B, the county of the person's
21 residence may recover from the defendant the fee and expenses.

22 Sec. 3. NEW SECTION. **707.6B Dangerous condition**
23 **manslaughter.**

24 1. A person commits dangerous condition manslaughter when
25 all of the following conditions are met:

26 a. The death of another person operating a snowmobile is
27 caused by a dangerous condition, use, structure, or activity.

28 b. The dangerous condition, use, structure, or activity is
29 located on property adjoining public lands or the right-of-way
30 of a public highway or roadway.

31 c. The property upon which the dangerous condition, use,
32 structure, or activity is located is owned by the person or is
33 located on the property for which the person is responsible for
34 care or operation.

35 d. The person had actual knowledge or actual notice of the

1 regular use of the property upon which the dangerous condition,
2 use, structure, or activity is located as an area for the
3 operation of snowmobiles.

4 e. The person had actual knowledge or actual notice of the
5 dangerous condition, use, structure, or activity.

6 f. The person failed to guard or warn against the dangerous
7 condition, use, structure, or activity.

8 2. Dangerous condition manslaughter is a class "C" felony.

9 Sec. 4. Section 910.3A, Code 2011, is amended to read as
10 follows:

11 **910.3A Notification of a homicide victim's county of**
12 **residence.**

13 The county attorney of a county in which a judgment of
14 conviction and sentence under section 707.2, 707.3, 707.4,
15 707.5, ~~or 707.6A~~, or 707.6B is rendered against a defendant
16 relating to a person's death shall notify in writing the clerk
17 of the district court of the county of the person's residence.
18 Such notification shall be for the purpose of the county of the
19 person's residence recovering from the defendant the fee and
20 expenses incurred investigating the person's death pursuant to
21 section 331.802, subsection 2.

22 EXPLANATION

23 This bill amends Code section 321G.22 relating to liability
24 and the duty of care owed by certain governmental bodies,
25 property owners, and tenants to certain snowmobile operators.
26 The bill amends the general exception from liability and duty
27 of care by providing that an owner may have a duty of care
28 and may be subject to certain liability if the owner of the
29 property or the person responsible for care or operation of the
30 property, upon which a dangerous condition, use, structure, or
31 activity is located, had actual knowledge or actual notice and
32 failed to guard or warn against the dangerous condition, use,
33 structure, or activity.

34 The bill establishes the offense of dangerous condition
35 manslaughter. Under the bill, a person commits the offense

1 of dangerous condition manslaughter when the death of another
2 person operating a snowmobile is caused by a dangerous
3 condition, use, structure, or activity located on property
4 owned or under the care or operation of the person, the
5 property adjoins public lands or the right-of-way of a public
6 highway or roadway, the person had actual knowledge or actual
7 notice of the regular use of the property as an area for the
8 operation of snowmobiles, the person had actual knowledge or
9 actual notice of the dangerous condition, use, structure, or
10 activity, and the person failed to guard or warn against the
11 dangerous condition, use, structure, or activity.

12 The bill provides that dangerous condition manslaughter
13 is a class "C" felony. A class "C" felony is punishable by
14 confinement for no more than 10 years and a fine of at least
15 \$1,000 but not more than \$10,000.

16 The bill makes corresponding changes to provisions of the
17 Code relating to the recovery of certain fees and expenses
18 relating to the investigation of a death.